

# House Daily Reader

# Tuesday, February 16, 1999

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# State of South Dakota

SEVENTY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 1999

347C0060

## HOUSE TRANSPORTATION COMMITTEE

### ENGROSSED NO. **HB1004** - 2/12/99

Introduced by: Representatives Crisp, Derby, Fischer-Clemens, Konold, and Munson (Donald)  
and Senators Olson, Hutmacher, and Vitter at the request of the Interim  
Transportation Committee

1 FOR AN ACT ENTITLED, An Act to increase and revise license fees for certain noncommercial  
2 vehicles, to revise the distribution of license fees, and to increase the excise tax on certain  
3 motor fuels.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That § 32-5-6 be amended to read as follows:

6 32-5-6. License fees and compensation on a noncommercial motor vehicle which is an  
7 automobile, pickup truck, or van as provided by § 32-5-5, shall be determined by the  
8 manufacturer's shipping weight, including accessories, as follows:

9 (1) Two thousand pounds or less, inclusive, ~~twenty~~ thirty dollars;

10 (2) From 2,001 to 4,000 pounds, inclusive, ~~thirty~~ forty-two dollars;

11 (3) From 4,001 to 6,000 pounds, inclusive, ~~forty~~ fifty-five dollars;

12 (4) ~~to (11) Repealed by SL 1992, ch 26, § 7~~ Over 6,000 pounds, sixty-five dollars.

13 Section 2. That § 32-5-6.3 be amended to read as follows:

14 32-5-6.3. License fees on a noncommercial motor vehicle which is not an automobile, pickup  
15 truck, or van ~~as provided by~~ licensed pursuant to § 32-5-6 shall be determined by the gross

weight of the motor vehicle as defined by subdivision 32-9-1(6), and based on the following:

- (1) Eight thousand pounds or less, inclusive, ~~forty-eight~~ fifty-five dollars;
- (2) For each additional 2,000 pounds or major fraction thereof from 8,001 to 32,000 pounds, inclusive, three dollars;
- (3) For each additional 2,000 pounds or major fraction thereof from 32,001 to 54,000 pounds, inclusive, six dollars;
- (4) For each additional 2,000 pounds or major fraction thereof from 54,001 to 80,000 pounds, inclusive, eighteen dollars;
- (5) For each additional 2,000 pounds or major fraction thereof in excess of 80,000 pounds, twenty-four dollars.

It is a Class 2 misdemeanor for a person to operate a motor vehicle licensed pursuant to this section at a gross weight in excess of the gross weight for which it has been licensed.

Section 3. That § 32-5-5 be amended to read as follows:

~~32-5-5. Subject to the provisions of §§ 32-5-17 to 32-5-45, inclusive, license fees and compensation for use of the highways, fees shall be~~ Vehicle license fees provided by this chapter  
are based, except as otherwise specifically provided, upon manufacturers' weights, including accessories. If a noncommercial motor vehicle is an automobile, pickup truck, or van with a manufacturer's shipping weight, including accessories, of ~~six~~ ten thousand pounds or less, the license fees for such a motor vehicle shall be as provided by § 32-5-6. However, if the noncommercial motor vehicle is a pickup truck that weighs more than six thousand pounds, the owner has the choice of paying the license fees pursuant to § 32-5-6 or paying the license fees based on the gross weight of the motor vehicle as provided in § 32-5-6.3. The license fees for a noncommercial motor home are as provided by § 32-5-6.1. The license fees for motorcycles shall be a motorcycle are as provided by § 32-5-9. The license fees for ~~snowmobiles shall be a snowmobile are~~ as provided by § 32-5-9.1. The license fees for any other noncommercial motor

vehicle ~~shall be~~ are based on the gross weight of the motor vehicle and are as provided in § 32-5-6.3. If the department determines the actual dry weight of any model vehicle with accessories to be at variance with the manufacturers' shipping weight, the department shall certify the correct weight to be used in determining fees.

These fees shall be paid annually to the county treasurer, ~~and shall be as provided by this chapter.~~

Section 4. That § 32-5-8 be amended to read as follows:

32-5-8. License fees and compensation for any recreational vehicle as defined in § 32-3-1 or for any noncommercial trailer and semitrailer, for use of the highways payable under § 32-5-5 and pulled by a noncommercial motor vehicle on which the license fees were paid pursuant to § 32-5-6, shall be determined upon the basis of their actual weight as follows:

- (1) One thousand pounds or less, inclusive, ~~five~~ ten dollars;
- (2) From 1,001 to 2,000 pounds, inclusive, ~~fifteen~~ twenty dollars;
- (3) From 2,001 to 3,000 pounds, inclusive, ~~twenty-five~~ thirty-five dollars;
- (4) From 3,001 to 4,000 pounds, inclusive, ~~thirty-five~~ forty-five dollars;
- (5) From 4,001 to 5,000 pounds, inclusive, ~~forty-five~~ fifty-five dollars;
- (6) From 5,001 to 6,000 pounds, inclusive, ~~fifty-five~~ sixty-five dollars;
- (7) From 6,001 to 7,000 pounds, inclusive, ~~sixty-five~~ seventy-five dollars;
- (8) From 7,001 to 8,000 pounds, inclusive, ~~seventy-five~~ eighty-five dollars;
- (9) From 8,001 to 9,000 pounds, inclusive, ~~eighty-five~~ ninety-five dollars;
- (10) From 9,001 to 10,000 pounds, inclusive, ~~ninety-five~~ one hundred five dollars;
- (11) For each additional 1,000 pounds or major fraction thereof, in excess of 10,000 pounds, ten dollars.

Any trailer or semitrailer licensed pursuant to this section may be pulled by a noncommercial motor vehicle licensed pursuant to § 32-5-8.1 or a commercially licensed motor vehicle if the

motor vehicle is registered at a gross weight to cover the weight of the trailer and its load.

Section 5. That § 32-5-8.1 be amended to read as follows:

32-5-8.1. Each trailer or semitrailer pulled by a noncommercial motor vehicle on which the license fees were paid pursuant to § 32-5-6.3 shall have an identification plate displayed in a conspicuous manner. The fee for the identification plate is ten dollars. The identification plate is valid for the useful life of the trailer or semitrailer. However, if the title to the trailer or semitrailer is transferred, the new owner shall within thirty days of the date of transfer make application to the department for a new identification plate. All revenue raised by the fees shall be placed in the license plate special revenue fund. However, no identification plate may be displayed on a recreational vehicle as defined in § 32-3-1. Such a recreational vehicle shall be licensed pursuant to § 32-5-8.

Section 6. That § 32-5-6.1 be amended to read as follows:

~~32-5-6.1. License fees and compensation on recreational motor buses as defined by this section shall be determined pursuant to § 32-5-6.3. However, the maximum license fee and compensation for a recreational motor bus shall be one hundred dollars. For the purposes of this section the term, recreational motor bus, means a motor bus which has been converted for recreational purposes subsequent to the initial retail sale.~~ License fees for any noncommercial motor home shall be determined by the manufacturer's shipping weight, including accessories, as follows:

- (1) Six thousand pounds or less, inclusive, sixty dollars;
- (2) From 6,001 to 8,000 pounds, inclusive, eighty dollars;
- (3) From 8,001 to 10,000 pounds, inclusive, one hundred dollars;
- (4) For each additional 2,000 pounds or major fraction thereof, in excess of 10,000 pounds, twenty dollars.

For the purposes of this section, a motor home is a vehicle designed to provide temporary

1 living quarters for recreational, camping, or travel use, built on or permanently attached to a self-  
2 propelled motor vehicle chassis or on a chassis cab or van that is an integral part of the  
3 completed vehicle.

4 Section 7. That § 32-6B-21 be amended to read as follows:

5 32-6B-21. The department shall issue metal numerical license plates to licensed dealers upon  
6 application and payment of a ~~thirty~~ fifty-five dollar yearly fee to be paid at the time of the annual  
7 review date for each set desired. Such fees shall be distributed in the manner specified in  
8 §§ 32-11-2 and 32-11-4.1 to 32-11-9, inclusive. The license plates shall be numbered  
9 consecutively and shall bear as a prefix the number 77. The plates may be issued for a multiple  
10 year period. If a dealer's license is revoked or canceled or the dealer goes out of business the 77  
11 plates shall be returned to the department. If any person operates a motor vehicle with 77 plates  
12 after the dealer license is revoked or canceled or after the dealer goes out of business, or if the  
13 person refuses to return the plates, the person is guilty of a Class 2 misdemeanor.

14 Section 8. That § 32-11-4.1 be amended to read as follows:

15 32-11-4.1. All funds collected for motor vehicle licenses in each county shall be distributed  
16 in the following manner:

17 (1) ~~Fifty-four~~ Fifty-seven percent of all funds collected shall be transmitted to the  
18 secretary of revenue ~~and, from which one million thirty-three thousand two hundred~~  
19 sixty-nine dollars and ten cents shall be forwarded to the counties for deposit in the  
20 special highway fund of the county, in the same amount as funds were distributed to  
21 the counties by the Department of Game, Fish and Parks for license fees in calendar  
22 year 1997, pursuant to 41-6-70, and the balance shall be credited to the local  
23 government highway and bridge fund;

24 (1A) Twenty-two and one-half percent shall be credited to the general fund of the county  
25 in which they were collected;

(2) Fourteen percent shall be retained by the county and placed in a fund to be known as the special highway fund, which shall be used for the construction, reconstruction, and maintenance of roads and bridges in the county as provided by this section and §§ 32-11-5 to 32-11-9, inclusive. If the county in which funds are collected for motor vehicle licenses has completed the construction of the county highway system, the entire amount in the special highway fund shall be used for township roads, and the board of county commissioners may direct the county auditor to pay the collected amount directly to the townships pursuant to §§ 32-11-6 and 32-11-7;

(3) Five percent shall be forwarded to the municipalities within the counties in the following proportions: each municipality within each county shall receive funds in the proportion which the total street mileage of each municipality bears to the total street mileage of all the municipalities within the county. The apportionment shall be made quarterly by the county commissioners at the first meeting in January, April, July, and October. In any county having no municipalities, the five percent collection shall be placed in the county road and bridge fund of the county;

(4) ~~Two~~ One-half percent shall be credited to the state motor vehicle fund; and

(5) ~~Two and one-half~~ One percent shall be credited to the state license plate special revenue fund.

Section 9. That § 32-11-29 be amended to read as follows:

32-11-29. The following fees:

(1) Fees collected under §§ 32-3-57, 32-5-99, 32-5-111, and 32-7A-14.1;

(2) The ~~two percent of~~ motor vehicle license collections referred to in ~~§ 32-11-4.1~~ subdivision 32-11-4.1(4);

(3) The title fees collected under §§ 32-3-18 and 32-3-27;

shall be credited to the state motor vehicle fund. All revenues not appropriated from the special

revenue fund established by § 32-5-10.2 shall remain in the fund for the next fiscal year and be used solely for purposes of motorcycle safety courses and motorcycle safety education.

Section 10. That § 10-47B-4 be amended to read as follows:

10-47B-4. The fuel excise tax rates for the tax imposed by this chapter are as follows:

- (1) Motor fuel (except ethanol blends, E85 and M85 blends, and aviation gasoline) - ~~\$.18~~ \$.21 per gallon;
- (2) Special fuel (except jet fuel) - ~~\$.18~~ \$.21 per gallon;
- (3) Ethanol blends - ~~\$.16~~ \$.19 per gallon;
- (4) Aviation gasoline - \$.06 per gallon;
- (5) Jet fuel - \$.04 per gallon;
- (6) E85 and M85 - ~~\$.06~~ \$.09 per gallon;
- (7) E85 and M85 used in aircraft - \$.04 per gallon;
- (8) Liquid petroleum gas - ~~\$.16~~ \$.19 per gallon;
- (9) Compressed natural gas - ~~\$.06~~ \$.09 per gallon.

Section 11. That § 32-5-9 be amended to read as follows:

32-5-9. License fees and compensation for use of the highways payable under § 32-5-5 shall be: ~~seven~~ nine dollars and fifty cents for motorcycles with a piston displacement of less than three hundred fifty cubic centimeters and ~~ten~~ twelve dollars for motorcycles with a piston displacement of three hundred fifty cubic centimeters or more.

Section 12. That § 32-5-30 be amended to read as follows:

32-5-30. If any noncommercial motor vehicle, according to the manufacturer's model year designation, is ~~five~~ six years old or more on January first of the year for which a license fee is required, such fee shall be seventy percent of the fee ordinarily prescribed.



1    **BILL HISTORY**

2    1/12/99 First read in House and referred to Transportation. H.J. 32

3    1/20/99 Scheduled for Committee hearing on this date.

4    2/10/99 Scheduled for Committee hearing on this date.

5    2/10/99 Transportation Do Pass Amended, Passed, AYES 8, NAYS 5. H.J. 478

# State of South Dakota

SEVENTY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 1999

193C0010

SENATE STATE AFFAIRS COMMITTEE

ENGROSSED NO. **HB1012** - 2/10/99

Introduced by: Representatives Fiegen, Cerny, Duenwald, Hagen, Hunt, Koskan, and Peterson  
and Senators Brosz, Ham, Kloucek, and Lawler at the request of the Interim  
Health and Human Services Committee

1 FOR AN ACT ENTITLED, An Act to establish criteria for the use of utilization review by  
2 health carriers, utilization review organizations, and other contracted entities.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. Terms used in this Act mean:

5 (1) "Adverse determination," a determination by a health carrier or its designee utilization  
6 review organization that an admission, availability of care, continued stay, or other  
7 health care service has been reviewed and, based upon the information provided, does  
8 not meet the health carrier's requirements for medical necessity, appropriateness,  
9 health care setting, level of care or effectiveness, and the requested service is therefore  
10 denied, reduced, or terminated;

11 (2) "Ambulatory review," utilization review of health care services performed or provided  
12 in an outpatient setting;

13 (3) "Case management," a coordinated set of activities conducted for individual patient  
14 management of serious, complicated, protracted, or other health conditions;

15 (4) "Certification," a determination by a health carrier or its designee utilization review

1 organization that an admission, availability of care, continued stay, or other health  
2 care service has been reviewed and, based on the information provided, satisfies the  
3 health carrier's requirements for medical necessity, appropriateness, health care  
4 setting, level of care, and effectiveness;

5 (7) "Concurrent review," utilization review conducted during a patient's hospital stay or  
6 course of treatment;

7 (8) "Covered benefits" or "benefits," those health care services to which a covered person  
8 is entitled under the terms of a health benefit plan;

9 (9) "Covered person," a policyholder, subscriber, enrollee, or other individual  
10 participating in a health benefit plan;

11 (10) "Discharge planning," the formal process for determining, prior to discharge from a  
12 facility, the coordination and management of the care that a patient receives following  
13 discharge from a facility;

14 (11) "Facility," an institution providing health care services or a health care setting,  
15 including hospitals and other licensed inpatient centers, ambulatory surgical or  
16 treatment centers, skilled nursing centers, residential treatment centers, diagnostic,  
17 laboratory, and imaging centers, and rehabilitation, and other therapeutic health  
18 settings;

19 (12) "Health benefit plan," a policy, contract, certificate, or agreement entered into,  
20 offered, or issued by a health carrier to provide, deliver, arrange for, pay for, or  
21 reimburse any of the costs of health care services;

22 (13) "Health care professional," a physician or other health care practitioner licensed,  
23 accredited, or certified to perform specified health services consistent with state law;

24 (14) "Health care provider" or "provider," a health care professional or a facility;

25 (15) "Health care services," services for the diagnosis, prevention, treatment, cure, or relief

1 of a health condition, illness, injury, or disease;

2 (15A) "Health carrier," an entity subject to the insurance laws and regulations of this state,  
3 or subject to the jurisdiction of the director, that contracts or offers to contract to  
4 provide, deliver, arrange for, pay for, or reimburse any of the costs of health care  
5 services, including a sickness and accident insurance company, a health maintenance  
6 organization, a nonprofit hospital and health service corporation, or any other entity  
7 providing a plan of health insurance, health benefits, or health services;

8 (16) "Managed care contractor," a person who establishes, operates, or maintains a  
9 network of participating providers; or contracts with an insurance company, a hospital  
10 or medical service plan, an employer, an employee organization, or any other entity  
11 providing coverage for health care services to operate a managed care plan;

12 (17) "Managed care entity," a licensed insurance company, hospital or medical service  
13 plan, health maintenance organization, an employer or employee organization, or a  
14 managed care contractor that operates a managed care plan;

15 (18) "Managed care plan," a plan operated by a managed care entity that provides for the  
16 financing or delivery of health care services, or both, to persons enrolled in the plan  
17 through any of the following:

- 18 (a) Arrangements with selected providers to furnish health care services;  
19 (b) Explicit standards for the selection of participating providers; or  
20 (c) Financial incentives for persons enrolled in the plan to use the participating  
21 providers and procedures provided for by the plan;

22 (19) "Necessary information," includes the results of any face-to-face clinical evaluation  
23 or second opinion that may be required;

24 (20) "Network," the group of participating providers providing services to a health carrier;

25 (21) "Participating provider," a provider who, under a contract with the health carrier or

1 with its contractor or subcontractor, has agreed to provide health care services to  
2 covered persons with an expectation of receiving payment, other than coinsurance,  
3 copayments, or deductibles, directly or indirectly, from the health carrier;

4 (22) "Prospective review," utilization review conducted prior to an admission or a course  
5 of treatment;

6 (23) "Retrospective review," utilization review of medical necessity that is conducted after  
7 services have been provided to a patient, but does not include the review of a claim  
8 that is limited to an evaluation of reimbursement levels, veracity of documentation,  
9 accuracy of coding, or adjudication for payment;

10 (24) "Second opinion," an opportunity or requirement to obtain a clinical evaluation by a  
11 provider other than the one originally making a recommendation for a proposed health  
12 service to assess the clinical necessity and appropriateness of the initial proposed  
13 health service;

14 (25) "Utilization review," an activity as defined in subdivisions 58-17-91(4) and 58-18-  
15 64(4); and

16 (26) "Utilization review organization," an entity that conducts utilization review.

17 Section 2. This Act applies to any health carrier that provides or performs utilization review  
18 services. The requirements of this Act also apply to any designee of the health carrier or  
19 utilization review organization that performs utilization review functions on the carrier's behalf.

20 Section 3. A health carrier is responsible for monitoring all utilization review activities carried  
21 out by, or on behalf of, the health carrier and for ensuring that all requirements of this Act and  
22 applicable rules are met. The health carrier shall also ensure that appropriate personnel have  
23 operational responsibility for the conduct of the health carrier's utilization review program.

24 Section 4. If a health carrier contracts to have a utilization review organization or other entity  
25 perform the utilization review functions required by this Act or applicable rules, the director shall

1 hold the health carrier responsible for monitoring the activities of the utilization review  
2 organization or entity with which the health carrier contracts and for ensuring that the  
3 requirements of this Act and applicable rules are met.

4 Section 5. A health carrier that conducts utilization review shall implement a written  
5 utilization review program that describes all review activities, both delegated and nondelegated,  
6 for covered services provided. The program document shall describe the following:

- 7 (1) Procedures to evaluate the clinical necessity, appropriateness, efficacy, or efficiency  
8 of health services;
- 9 (2) Data sources and clinical review criteria used in decision-making;
- 10 (3) The process for conducting appeals of adverse determinations;
- 11 (4) Mechanisms to ensure consistent application of review criteria and compatible  
12 decisions;
- 13 (5) Data collection processes and analytical methods used in assessing utilization of health  
14 care services;
- 15 (6) Provisions for assuring confidentiality of clinical and proprietary information;
- 16 (7) The organizational structure that periodically assesses utilization review activities and  
17 reports to the health carrier's governing body; and
- 18 (8) The staff position functionally responsible for day-to-day program management.

19 A health carrier shall prepare an annual summary report of its utilization review program  
20 activities and file the report, if requested, with the director and the secretary of the Department  
21 of Health.

22 Section 6. A utilization review program shall use documented clinical review criteria that are  
23 based on sound clinical evidence and are evaluated periodically to assure ongoing efficacy. A  
24 health carrier may develop its own clinical review criteria, or it may purchase or license clinical  
25 review criteria from qualified vendors. A health carrier shall make available its clinical review

1 criteria upon request to authorized government agencies including the Division of Insurance and  
2 the Department of Health.

3 Section 7. Qualified licensed health care professionals shall administer the utilization review  
4 program and oversee review decisions. Any adverse determination shall be evaluated by an  
5 appropriately licensed and clinically qualified health care provider.

6 Section 8. A health carrier shall issue utilization review decisions in a timely manner pursuant  
7 to the requirements of this Act. A health carrier shall obtain all information required to make a  
8 utilization review decision, including pertinent clinical information. A health carrier shall have  
9 a process to ensure that utilization reviewers apply clinical review criteria consistently.

10 Section 9. A health carrier shall routinely assess the effectiveness and efficiency of its  
11 utilization review program.

12 Section 10. A health carrier's data system shall be sufficient to support utilization review  
13 program activities and to generate management reports to enable the health carrier to monitor  
14 and manage health care services effectively.

15 Section 11. If a health carrier delegates any utilization review activities to a utilization review  
16 organization, the health carrier shall maintain adequate oversight, which shall include:

- 17 (1) A written description of the utilization review organization's activities and  
18 responsibilities, including reporting requirements;
- 19 (2) Evidence of formal approval of the utilization review organization program by the  
20 health carrier; and
- 21 (3) A process by which the health carrier evaluates the performance of the utilization  
22 review organization.

23 Section 12. A health carrier shall coordinate the utilization review program with other  
24 medical management activity conducted by the carrier, such as quality assurance, credentialing,  
25 provider contracting data reporting, grievance procedures, processes for assessing member

1 satisfaction, and risk management.

2 Section 13. A health carrier shall provide covered persons and participating providers with  
3 access to its review staff by a toll-free number or collect call telephone line.

4 Section 14. When conducting utilization review, the health carrier shall collect only the  
5 information necessary to certify the admission, procedure or treatment, length of stay, frequency,  
6 and duration of services.

7 Section 15. Compensation to persons providing utilization review services for a health carrier  
8 may not contain incentives, direct or indirect, for these persons to make inappropriate review  
9 decisions. Compensation to any such persons may not be based, directly or indirectly, on the  
10 quantity or type of adverse determinations rendered.

11 Section 16. A health carrier shall maintain written procedures for making utilization review  
12 decisions and for notifying covered persons and providers acting on behalf of covered persons  
13 of its decisions.

14 Section 17. For initial determinations, a health carrier shall make the determination within  
15 two working days of obtaining all necessary information regarding a proposed admission,  
16 procedure, or service requiring a review determination:

17 (1) In the case of a determination to certify an admission, procedure, or service, the  
18 health carrier shall notify the provider rendering the service by telephone within  
19 twenty-four hours of making the initial certification; and shall provide written or  
20 electronic confirmation of the telephone notification to the covered person and the  
21 provider within two working days of making the initial certification.

22 (2) In the case of an adverse determination, the health carrier shall notify the provider  
23 rendering the service by telephone within twenty-four hours of making the adverse  
24 determination; and shall provide written or electronic confirmation of the telephone  
25 notification to the covered person and the provider within one working day of making



1 the adverse determination.

2 Section 18. For concurrent review determinations, a health carrier shall make the  
3 determination within one working day of obtaining all necessary information:

4 (1) In the case of a determination to certify an extended stay or additional services, the  
5 health carrier shall notify by telephone the provider rendering the service within one  
6 working day of making the certification; and the health carrier shall provide written  
7 or electronic confirmation to the covered person and the provider within one working  
8 day after the telephone notification. The written notification shall include the number  
9 of extended days or next review date, the new total number of days or services  
10 approved, and the date of admission or initiation of services.

11 (2) In the case of an adverse determination, the health carrier shall notify by telephone the  
12 provider rendering the service within twenty-four hours of making the adverse  
13 determination; and the health carrier shall provide written or electronic notification  
14 to the covered person and the provider within one working day of the telephone  
15 notification. The service shall be continued without liability to the covered person  
16 until the covered person has been notified of the determination.

17 Section 19. For retrospective review determinations, a health carrier shall make the  
18 determination within thirty working days of receiving all necessary information:

19 (1) In the case of a certification, the health carrier may notify in writing the covered  
20 person and the provider rendering the service.

21 (2) In the case of an adverse determination, the health carrier shall notify in writing the  
22 provider rendering the service and the covered person within five working days of  
23 making the adverse determination.

24 Section 20. Any written notification of an adverse determination shall include the principal  
25 reason or reasons for the determination, the instructions for initiating an appeal, grievance, or

1 reconsideration of the determination, and the instructions for requesting a written statement of  
2 the clinical rationale used to make the determination. A health carrier shall provide the clinical  
3 rationale in writing for an adverse determination to any party who received notice of the adverse  
4 determination and who follows the procedures for a request. The clinical rationale shall contain  
5 sufficient specificity to allow the covered person to understand the basis of the adverse  
6 determination.

7 Section 21. A health carrier shall have written procedures to address the failure or inability  
8 of a provider or a covered person to provide all necessary information for review. If the provider  
9 or a covered person will not release necessary information, the health carrier may deny  
10 certification.

11 Section 22. In the certificate of coverage or member handbook provided to covered persons,  
12 a health carrier shall include a clear and comprehensive description of its utilization review  
13 procedures, including the procedures for obtaining review of adverse determinations, and a  
14 statement of rights and responsibilities of covered persons with respect to those procedures. A  
15 health carrier shall include a summary of its utilization review procedures in materials intended  
16 for prospective covered persons. A health carrier shall print on its membership cards a toll-free  
17 telephone number to call for utilization review decisions.

18 Section 23. Nothing in this Act applies to dental only, vision only, accident only, school  
19 accident, travel, or specified disease plans or plans that primarily provide a fixed daily, fixed  
20 occurrence, or fixed per procedure benefit without regard to expenses incurred.

21 Section 24. If the director of the Division of Insurance and the secretary of the Department  
22 of Health find that the requirements of any private accrediting body meet the requirements of  
23 utilization review as set forth in this Act, the health carrier may, at the discretion of the director  
24 and secretary, be deemed to have met the applicable requirements.

25 Section 25. The director may, after consultation with the secretary of the Department of

1 Health, promulgate rules pursuant to chapter 1-26 to carry out the provisions of the Act. The  
2 rules shall be designed to afford the public timely administration of utilization review and to  
3 assure that utilization review decisions are made in a fair and clinically acceptable manner. The  
4 rules may include the following:

- 5 (1) Definition of terms;
- 6 (2) Timing, form, and content of reports;
- 7 (3) Application of clinical criteria as it relates to utilization review;
- 8 (4) Written determinations; and
- 9 (5) Utilization review procedures.

1    **BILL HISTORY**

2    1/12/99 First read in House and referred to Health and Human Services. H.J. 34

3    1/27/99 Scheduled for Committee hearing on this date.

4    1/27/99 Scheduled for Committee hearing on this date.

5    1/29/99 Scheduled for Committee hearing on this date.

6    1/29/99 Health and Human Services Do Pass Amended, Passed, AYES 11, NAYS 1. H.J. 308

7    2/4/99 House of Representatives Do Pass Amended, Passed, AYES 52, NAYS 11. H.J. 376

8    2/5/99 First read in Senate and referred to State Affairs. S.J. 346

9    2/8/99 Scheduled for Committee hearing on this date.

10   2/8/99 Scheduled for Committee hearing on this date.

11   2/8/99 State Affairs Do Pass Amended, Passed, AYES 8, NAYS 0. S.J. 392

# State of South Dakota

SEVENTY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 1999

346C0266

SENATE STATE AFFAIRS COMMITTEE

ENGROSSED NO. **HB1013** - 2/10/99

Introduced by: Representatives Hunt, Duenwald, Fiegen, Hagen, Koskan, and Peterson and  
Senators Lawler, Brosz, Ham, and Kloucek at the request of the Interim Health  
and Human Services Committee

1 FOR AN ACT ENTITLED, An Act to establish certain requirements regarding coverage of  
2 emergency medical services.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. Terms used in this Act mean:

5 (1) "Covered person," a policyholder, subscriber, enrollee, or other individual  
6 participating in a plan;

7 (2) "Emergency medical condition," the sudden and, at the time, unexpected onset of a  
8 health condition that requires immediate medical attention, if failure to provide  
9 medical attention would result in serious impairment to bodily functions or serious  
10 dysfunction of a bodily organ or part, or would place the person's health in serious  
11 jeopardy;

12 (3) "Emergency service," health care items and services furnished or required to evaluate  
13 and treat an emergency medical condition;

14 (3A) "Health carrier," an entity subject to the insurance laws and regulations of this state,  
15 or subject to the jurisdiction of the director, that contracts or offers to contract, or

1 enters into an agreement to provide, deliver, arrange for, pay for, or reimburse any of  
2 the costs of health care services, including a sickness and accident insurance company,  
3 a health maintenance organization, a nonprofit hospital and health service corporation,  
4 or any other entity providing a plan of health insurance, health benefits, or health  
5 services;

6 (4) "Managed care contractor," a person who establishes, operates, or maintains a  
7 network of participating providers; or contracts with an insurance company, a hospital  
8 or medical service plan, an employer, an employee organization, or any other entity  
9 providing coverage for health care services to operate a managed care plan;

10 (5) "Managed care entity," a licensed insurance company, hospital or medical service  
11 plan, health maintenance organization, an employer or employee organization, or a  
12 managed care contractor that operates a managed care plan;

13 (6) "Managed care plan," a plan operated by a managed care entity that provides for the  
14 financing or delivery of health care services, or both, to persons enrolled in the plan  
15 through any of the following:

16 (a) Arrangements with selected providers to furnish health care services;

17 (b) Explicit standards for the selection of participating providers; or

18 (c) Financial incentives for persons enrolled in the plan to use the participating  
19 providers and procedures provided for by the plan;

20 (7) "Participating provider," a provider who, under a contract with the health carrier or  
21 with its contractor or subcontractor, has agreed to provide health care services to  
22 covered persons with an expectation of receiving payment, other than coinsurance,  
23 copayments, or deductibles, directly or indirectly from the health carrier;

24 (8) "Stabilized," with respect to an emergency medical condition, that no material  
25 deterioration of the condition is likely, with reasonable medical probability, to result

1           or occur before an individual can be transferred.

2           Section 2. A health carrier shall cover emergency services necessary to screen and stabilize  
3 a covered person and may not require prior authorization of such services if a prudent lay person  
4 acting reasonably would have believed that an emergency medical condition existed. With respect  
5 to care obtained from a noncontracting provider within the service area of a managed care plan,  
6 a health carrier shall cover emergency services necessary to screen and stabilize a covered person  
7 and may not require prior authorization of such services if a prudent layperson would have  
8 reasonably believed that use of a contracting provider would result in a delay that would worsen  
9 the emergency, or if a provision of federal, state, or local law requires the use of a specific  
10 provider. The coverage shall be at the same benefit level as if the service or treatment had been  
11 rendered by a participating provider.

12          A health carrier shall cover emergency services if the plan, acting through a participating  
13 provider or other authorized representative, has authorized the provision of emergency services.

14          Section 3. If a participating provider or other authorized representative of a health carrier  
15 authorizes emergency services, the health carrier may not retroactively deny its authorization  
16 after the emergency services have been provided, or reduce payment for a covered expense  
17 furnished in reliance on approval, unless the approval was based on a material misrepresentation  
18 about the covered person's health condition made by the provider of emergency services.

19          Section 4. Coverage of emergency services is subject to any contract coverage limits,  
20 applicable copayments, coinsurance, and deductibles.

21          Section 5. For immediately required post-evaluation or post-stabilization services, a health  
22 carrier shall provide access to an authorized representative twenty-four hours a day, seven days  
23 a week, to facilitate review, or otherwise provide coverage with no financial penalty to the  
24 covered person.

25          Section 6. A covered person shall have access to emergency services twenty-four hours a

1 day, seven days a week to treat emergency medical conditions that require immediate medical  
2 attention.

3 Section 7. Nothing in this Act applies to dental only, vision only, accident only, school  
4 accident, travel, or specified disease plans or plans that primarily provide a fixed daily, fixed  
5 occurrence, or fixed per procedure benefit without regard to expenses incurred.

6 Section 8. If the director of the Division of Insurance and the secretary of the Department  
7 of Health find that the requirements of any private accrediting body meet the requirements of  
8 coverage of emergency medical services as set forth in this Act, the health carrier may, at the  
9 discretion of the director and secretary, be deemed to have met the applicable requirements.



1    **BILL HISTORY**

2    1/12/99 First read in House and referred to Health and Human Services. H.J. 34

3    1/27/99 Scheduled for Committee hearing on this date.

4    1/27/99 Scheduled for Committee hearing on this date.

5    1/29/99 Scheduled for Committee hearing on this date.

6    1/29/99 Health and Human Services Do Pass Amended, Passed, AYES 12, NAYS 0. H.J. 309

7    2/4/99 House of Representatives Do Pass Amended, Passed, AYES 53, NAYS 6. H.J. 377

8    2/5/99 First read in Senate and referred to State Affairs. S.J. 346

9    2/8/99 Scheduled for Committee hearing on this date.

10   2/8/99 Scheduled for Committee hearing on this date.

11   2/8/99 State Affairs Do Pass Amended, Passed, AYES 8, NAYS 0. S.J. 396

# State of South Dakota

SEVENTY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 1999

921C0389

## HOUSE EDUCATION COMMITTEE ENGROSSED NO. **HB1067** - 2/5/99

Introduced by: Representatives Brown (Richard), Jaspers, Kooistra, Napoli, Solum, and  
Volesky and Senators Everist, Dunn (Rebecca), and Rounds

1 FOR AN ACT ENTITLED, An Act to mandate driver's education, to increase certain fees, and  
2 to make a continuous appropriation to provide funding.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 13-33 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 Any school district operating a secondary school shall offer a course in driver's education.

7 The school district may offer driver's education for academic credit, but is not required to do so.

8 A school district may offer driver's education through a contract with another school district or  
9 a third-party provider so that driver's education is available to the school district's secondary

10 students. The school district shall allow any person between fourteen and nineteen years of age

11 to enroll in the driver's education course, whether or not the person is a student in the school

12 district. No person enrolled in driver's education courses may be included in a school district's

13 average daily membership for the purpose of state aid to education, unless that person normally

14 attends school in the school district. The course content of the driver's education course shall

15 comply with rules promulgated pursuant to chapter 1-26 by the Department of Education and

16 Cultural Affairs.

1       Section 2. That § 32-3-18 be amended to read as follows:

2       32-3-18. Application for a certificate of title shall be made to the secretary, upon a form  
3       prescribed by the secretary, containing a full description of the vehicle with vehicle identification  
4       numbers, if any, a statement of applicant's title and all liens and encumbrances thereon, the  
5       county in which the vehicle is to be kept, the names and addresses of the holders of all liens, title  
6       reservations and encumbrances thereon, and any other information as the secretary shall require.  
7       The application shall be accompanied by a fee of ~~five~~ eight dollars. If a certificate of title has  
8       previously been issued for the motor vehicle, trailer, or semitrailer in this state, it shall be  
9       accompanied by the certificate of title duly assigned, unless provided for in this chapter.

10       Section 3. That § 32-12-16 be amended to read as follows:

11       32-12-16. The fee for an original driver's license or a renewal of a license is ~~eight~~ eighteen  
12       dollars. The fee for a commercial license is twenty-five dollars if knowledge and skill testing is  
13       required and fifteen dollars if no skill testing is required, and five dollars for each endorsement.  
14       The fee for a duplicate license, a name change, or an address change is six dollars. The fee shall  
15       be credited to the state motor vehicle fund.

16       Section 4. Notwithstanding § 13-42-4, the Department of Education and Cultural Affairs  
17       shall issue a stand-alone teacher's certificate to teach driver's education to any person who has  
18       completed eight semester hours of driver's education course work at an accredited postsecondary  
19       institution.

20       Section 5. The Department of Education and Cultural Affairs and the Department of  
21       Commerce and Regulation shall form a task force for the purpose of developing the course  
22       guidelines for driver's education in secondary schools. The task force shall make a report of its  
23       findings and recommendations to the Executive Board of the Legislative Research Council prior  
24       to December 1, 1999.

25       Section 6. That chapter 32-12 be amended by adding thereto a NEW SECTION to read as

1 follows:

2 The Department of Commerce and Regulation may not issue an operator's license to any  
3 person under eighteen years of age who has not successfully completed an approved course in  
4 driver's education. This section does not apply to instructional or restricted permits.

5 Section 7. The increase in revenue resulting from the fee increases in sections 2 and 3 of this  
6 Act shall be deposited into the driver's education reimbursement fund which is hereby created  
7 as a separate fund in the state treasury.

8 Section 8. Each school district shall be reimbursed in the amount of one hundred fifty dollars  
9 for each student who successfully completes the driver's education course offered by the school  
10 district.

11 Section 9. There is hereby continuously appropriated from the driver's education  
12 reimbursement fund any money in the fund to the Department of Education and Cultural Affairs  
13 for the purpose of reimbursing school districts as provided in section 8 of this Act.

14 Section 10. If the amount of money in the driver's education reimbursement fund is not  
15 sufficient to fund the entitlement provided for in section 8 of this Act, then there is hereby  
16 appropriated to the driver's education reimbursement fund out of any money in the general fund  
17 an amount necessary to fully fund the entitlement provided for in section 8 of this Act.

18 Section 11. The secretary of the Department of Education and Cultural Affairs shall approve  
19 vouchers and the state auditor shall draw warrants to pay expenditures authorized by this Act.

20 Section 12. The Department of Education and Cultural Affairs may promulgate rules,  
21 pursuant to chapter 1-26, to provide for the reimbursement to school districts as provided in this  
22 Act.

23 Section 13. The Department of Commerce and Regulation may promulgate rules to establish  
24 criteria for approved driver's education courses.

25 Section 14. Section 1 of this Act is effective August 15, 2000.

1       Section 15. Section 6 of this Act is effective September 1, 2001.

2       Section 16. That chapter 13-33 be amended by adding thereto a NEW SECTION to read as  
3 follows:

4       Any person with a physical disability between the ages of fourteen to nineteen years old,  
5 inclusive, who is capable of learning to operate a motor vehicle, including a vehicle modified to  
6 be operated by a person with a physical disability, may enroll in any driver's education course  
7 offered pursuant to section 1 of this Act. The course, if necessary, shall train the student in the  
8 use of a vehicle modified for operation by a person with a physical disability and shall have  
9 available adequate equipment and personnel to accomplish such training. Any school district that  
10 provides training required pursuant to this section that results in costs in excess of the amount  
11 provided pursuant to section 8 of this Act shall be reimbursed for the excess costs from the  
12 amount set aside pursuant to § 13-37-40 for extraordinary expenses incurred in the provision of  
13 special education programs or services.

1    **BILL HISTORY**

2    1/15/99 First read in House and referred to Education. H.J. 67

3    2/4/99 Scheduled for Committee hearing on this date.

4    2/4/99 Education Do Pass Amended, Passed, AYES 9, NAYS 1. H.J. 366

# State of South Dakota

SEVENTY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 1999

660C0391

## SENATE ENGROSSED NO. **HB1084** - 2/12/99

Introduced by: Representatives Hunt, Brooks, and Crisp and Senator Munson (David)

1 FOR AN ACT ENTITLED, An Act to establish deadlines for action by school districts on  
2 certain reorganization petitions.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 13-6-10 be amended to read as follows:

5 13-6-10. ~~Whenever~~ If the school board or the voters of two or more districts or parts of  
6 districts express a desire to consolidate their respective districts to create a new entity; or the  
7 school board or the voters of an existing district express a desire to divide the district to create  
8 one or more new entities; or the school board or the voters of an existing district express a desire  
9 to dissolve and be annexed to an existing district, the school board may by resolution, or shall,  
10 ~~when~~ if presented by a petition signed by fifteen percent of the registered voters residing in the  
11 district, based upon the total number of registered voters at the last preceding general election,  
12 develop a plan to accomplish the desire expressed in the resolution or contained in the petition.  
13 If more than one district is involved, their respective school boards shall act jointly in the  
14 preparation of ~~such~~ the plan. Within fifteen days after a petition is filed as provided in this  
15 section, the school district shall acknowledge the receipt of the petition in writing to the person  
16 who filed the petition. Within one hundred eighty days after the petition was filed, the school

1 board shall develop the plan required in this section and shall file the plan as required in § 13-6-  
2 17. The Department of Education and Cultural Affairs may grant two extensions of the filing  
3 deadline, not to exceed ninety days each.

4 The school board shall call conferences and hold hearings to develop the plan. The school  
5 board may employ a consultant.



1    **BILL HISTORY**

2    1/20/99 First read in House and referred to Education. H.J. 94

3    1/26/99 Scheduled for Committee hearing on this date.

4    1/26/99 Education Do Pass Amended, Passed, AYES 13, NAYS 0. H.J. 189

5    1/28/99 House of Representatives Do Pass Amended, Passed, AYES 68, NAYS 1. H.J. 252

6    1/29/99 First read in Senate and referred to Education. S.J. 265

7    2/9/99 Scheduled for Committee hearing on this date.

8    2/9/99 Education Do Pass Amended, Passed, AYES 4, NAYS 3. S.J. 397

9    2/11/99 Senate Do Pass Amended, Failed, AYES 21, NAYS 12. S.J. 459

10   2/11/99 Intent to reconsider. S.J. 459

11   2/11/99 Motion to Amend, Passed. S.J. 460

12   2/11/99 Senate Do Pass Amended, Passed, AYES 19, NAYS 14. S.J. 460

13   2/11/99 Senate Title Amended Passed. S.J. 460

# State of South Dakota

SEVENTY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 1999

276C0197

HOUSE STATE AFFAIRS COMMITTEE

ENGROSSED NO. **HB1110** - 2/11/99

Introduced by: Representatives Lucas, Crisp, Hanson, Kazmerzak, Kooistra, McIntyre,  
Waltman, and Weber and Senators Dennert and Symens

1 FOR AN ACT ENTITLED, An Act to restrict the locations where video lottery machines may  
2 be placed and to increase sales and use taxes.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 42-7A-1 be amended to read as follows:

5 42-7A-1. Terms used in this chapter mean:

- 6 (1) "Associated equipment," any proprietary device, machine or part used in the  
7 manufacture or maintenance of a video lottery machine, including ~~but not limited to~~  
8 integrated circuit chips, printed wired assembly, printed wired boards, printing  
9 mechanisms, video display monitors, and metering devices;
- 10 (2) "Commission," the South Dakota Lottery Commission;
- 11 (3) "Credit," five, ten, or twenty-five cents;
- 12 (4) "Executive director," the executive director of the South Dakota Lottery;
- 13 (5) "Instant lottery," a game that offers preprinted tickets that indicate immediately or in  
14 a grand prize drawing ~~whether~~ if the player has won a prize;
- 15 (6) "Licensed establishment," a bar or lounge owned or managed by an individual,  
16 partnership, corporation, or association licensed to sell alcoholic beverages for

1 consumption upon the premises where sold, but not a business licensed to sell  
2 alcoholic beverages pursuant to subdivision 35-4-2(12) or (16);

3 (7) "Lottery" or "state lottery," any lottery operated pursuant to this chapter;

4 (8) "Lottery retailer," any person with whom the South Dakota Lottery has contracted  
5 to sell lottery tickets to the public;

6 (9) "Lottery vendor" or "vendor," any person who has entered into a major procurement  
7 contract with the South Dakota Lottery;

8 (10) "Major procurement," any contract with any vendor directly involved in providing  
9 facilities, equipment, tickets, and services unique to the lottery, but not including  
10 materials, supplies, equipment, and services common to the ordinary operations of  
11 state agencies;

12 (11) "Net machine income," money put into a video lottery machine minus credits paid out  
13 in cash;

14 (12) "On-line lottery," a game linked to a central computer via a telecommunications  
15 network in which the player selects a specified group of numbers or symbols out of  
16 a predetermined range of numbers or symbols as approved by the commission;

17 (13) "South Dakota Lottery," the state agency created by this chapter to operate a lottery  
18 pursuant to this chapter;

19 (14) "Ticket," any tangible evidence issued or authorized by the South Dakota Lottery to  
20 prove participation in an instant, on-line, or video lottery game;

21 (14A) "Video lottery," any video game of chance played on video lottery machines;

22 (15) "Video lottery machine distributor," any individual, partnership, corporation, or  
23 association that distributes or sells video lottery machines or associated equipment in  
24 this state;

25 (16) "Video lottery machine manufacturer," any individual, partnership, corporation, or

1 association that assembles or produces video lottery machines or associated  
2 equipment for sale or use in this state;

3 (17) "Video lottery machine operator," any individual, partnership, corporation, or  
4 association that places video lottery machines or associated equipment for public use  
5 in this state; and

6 (18) "Video lottery machines," or "machine," any electronic video game machine that,  
7 upon insertion of cash, is available to play or simulate the play of a video game,  
8 including ~~but not limited to~~ video poker, keno, and blackjack, authorized by the  
9 commission utilizing a video display and microprocessors in which, by chance, the  
10 player may receive free games or credits that can be redeemed for cash. The term  
11 does not include a machine that directly dispenses coins, cash, or tokens.

12 Section 2. That § 42-7A-37.1 be amended to read as follows:

13 42-7A-37.1. A business licensed pursuant to subdivision 35-4-2(12) ~~and or~~ (16) may not be  
14 a licensed establishment for video lottery placement pursuant to subdivision 42-7A-1(6) ~~unless~~  
15 ~~it is a bar or lounge. For the purposes of this section, a bar or lounge is an enterprise primarily~~  
16 ~~maintained and operated for the selling, dispensing and consumption of alcoholic beverages on~~  
17 ~~the premises and may also include the sale and service of food. A bar or lounge may be physically~~  
18 ~~connected to another enterprise within the same building, which enterprise may be owned or~~  
19 ~~operated by the same person. There may be interior access between a bar or lounge and a~~  
20 ~~connected enterprise. However, there shall be a floor to ceiling opaque wall separation between~~  
21 ~~the two enterprises. A separation wall may be constructed to provide visual and physical access~~  
22 ~~for employees from areas in the building not open to the public. The bar or lounge shall have a~~  
23 ~~separate entrance and exit. A separate entrance and exit is not required if entrance to the bar may~~  
24 ~~only be obtained from the other distinct enterprise and the public may not enter the other~~  
25 ~~enterprise by first passing through the bar or lounge. All video lottery machines shall be~~

1 ~~adequately monitored during business hours. Adequate monitoring shall be accomplished by the~~  
2 ~~personal presence of an employee or by an employee using video cameras or mirrors and periodic~~  
3 ~~inspections of the bar or lounge. No new license may be issued to any establishment after July 1,~~  
4 ~~1992, unless such establishment complies with this section. No license may be renewed to any~~  
5 ~~establishment after July 1, 1993, unless such establishment complies with this section.~~

6 Section 3. That § 42-7A-44 be amended to read as follows:

7 42-7A-44. The placement of video lottery machines in licensed establishments shall be subject  
8 to the rules of the commission promulgated pursuant to chapter 1-26. No more than ten video  
9 lottery machines may be placed in any licensed establishment. ~~The bar or lounge with an on-sale~~  
10 ~~license issued pursuant to subdivision 35-4-2(12) or (16) shall be restricted to persons~~  
11 ~~twenty-one years of age or older.~~ The entrance to the area where video lottery machines are  
12 located shall display a sign that the premises are restricted to persons twenty-one years or older.  
13 Notwithstanding the restrictions in §§ 35-4-79 to 35-4-79.2, inclusive, ~~persons~~ a person under  
14 the age of twenty-one may only enter the premises where video lottery machines are located  
15 provided ~~they are~~ the person is accompanied by a parent, guardian, or spouse of twenty-one  
16 years or older.

17 Section 4. That § 42-7A-64 be repealed.

18 ~~42-7A-64. A municipality or county may consider, in addition to the criteria for the issuance~~  
19 ~~of an on-sale alcoholic beverage license, the following criteria for authorizing video lottery~~  
20 ~~machine placement in establishments issued an on-sale alcoholic beverage license pursuant to~~  
21 ~~subdivisions 35-4-2(12) and (16):~~

22 ~~(1) The number of establishments currently licensed for video lottery;~~

23 ~~(2) The proximity of the business to other establishments licensed for video lottery;~~

24 ~~(3) The type of business and manner in which the applicant proposes to operate it;~~

25 ~~(4) The location of the business in relation to other businesses, residential areas, or~~

1           ~~activities within the same general area;~~

2       ~~—(5)—The extent to which minors frequent a business connected to the one proposed; and~~

3       ~~—(6)—The effect the proposed business has on economic development.~~

4       ~~—The governing board shall certify on each application filed with the department of revenue~~  
5       ~~for a license granted under subdivisions 35-4-2(12) and (16) whether the business premises is~~  
6       ~~authorized for video lottery machine placement. An existing video lottery license may not be~~  
7       ~~denied renewal or transfer based upon the criteria set forth in this section. The lottery may issue~~  
8       ~~a video lottery license to those establishments certified pursuant to this section. Notwithstanding~~  
9       ~~the above provisions, a county or municipality may not restrict the number of alcoholic beverage~~  
10      ~~licenses issued under subdivisions 35-4-2(12) and (16) and certified for video lottery to a number~~  
11      ~~less than those licensed as video lottery establishments on March 1, 1994.~~

12       Section 5. That § 35-4-103 be amended to read as follows:

13       35-4-103. Any municipality or county may impose on any person who is licensed pursuant  
14      to subdivision 35-4-2(4), (6), (11), ~~(12), (13) or (16)~~ or (13) and who is issued a video lottery  
15      establishment license pursuant to § 42-7A-41 an annual additional license fee for the privilege  
16      of locating video lottery machines on the licensed premises. The fee may not exceed fifty dollars  
17      for each video lottery machine. The fees imposed by this section are in addition to fees imposed  
18      under §§ 35-4-2 and 42-7A-41 and shall be paid at the same time and in the same manner as the  
19      fees paid in § 35-4-2. All fees received under this section shall be deposited into the general fund  
20      of the municipality or county having jurisdiction over the licensee. However, the municipality or  
21      county may not impose this additional fee on more than one license per location.

22       Section 6. That § 10-45-2 be amended to read as follows:

23       10-45-2. There is hereby imposed a tax upon the privilege of engaging in business as a  
24      retailer, a tax of four and one-half percent upon the gross receipts of all sales of tangible personal  
25      property consisting of goods, wares, or merchandise, except as taxed by § 10-45-3 and except

as otherwise provided in this chapter, sold at retail in the State of South Dakota to consumers or users.

Section 7. That § 10-45-3 be amended to read as follows:

10-45-3. There is hereby imposed a tax of three and one-half percent on the gross receipts from the sale or resale of farm machinery and attachment units other than replacement parts; or irrigation equipment used exclusively for agricultural purposes by licensed South Dakota retailers; provided, however, that whenever any trade-in or exchange of used farm machinery is involved in the transaction, the tax shall only be due and collected on the cash difference.

Section 8. That § 10-45-5 be amended to read as follows:

10-45-5. There is imposed a tax at the rate of three and one-half percent upon the gross receipts of any person from engaging in the business of leasing farm machinery or irrigation equipment used for agricultural purposes and four and one-half percent upon the gross receipts of any person from engaging or continuing in any of the following businesses or services in this state: abstracters; accountants; architects; barbers; beauty shops; bill collection services; blacksmith shops; car washing; dry cleaning; dyeing; exterminators; garage and service stations; garment alteration; cleaning and pressing; janitorial services and supplies; specialty cleaners; laundry; linen and towel supply; membership or entrance fees for the use of a facility or for the right to purchase tangible personal property or services; photography; photo developing and enlarging; tire recapping; welding and all repair services; cable television; and rentals of tangible personal property except leases of tangible personal property between one telephone company and another telephone company, motor vehicles as defined by § 32-5-1 leased under a single contract for more than twenty-eight days and mobile homes provided, however, that the specific enumeration of businesses and professions made in this section does not, in any way, limit the scope and effect of § 10-45-4.

Section 9. That § 10-45-5.3 be amended to read as follows:

1        10-45-5.3. There is imposed, at the rate of three and one-half percent, an excise tax on the  
2        gross receipts of any person engaging in oil and gas field services (group no. 138) as enumerated  
3        in the Standard Industrial Classification Manual, 1987, as prepared by the Statistical Policy  
4        Division of the Office of Management and Budget, Office of the President.

5        Section 10. That § 10-45-6 be amended to read as follows:

6        10-45-6. There is hereby imposed a tax of four and one-half percent upon the gross receipts  
7        from sales, furnishing, or service of gas, electricity, and water, including the gross receipts from  
8        such sales by any municipal corporation furnishing gas, and electricity, to the public in its  
9        proprietary capacity, except as otherwise provided in this chapter, when sold at retail in the State  
10       of South Dakota to consumers or users.

11       Section 11. That § 10-45-6.1 be amended to read as follows:

12       10-45-6.1. There is hereby imposed on amounts paid for local telephone services, toll  
13       telephone services, and teletypewriter services, a tax of four and one-half percent of the amount  
14       so paid. The taxes imposed by this section shall be paid by the person paying for the services. If  
15       a bill is rendered the taxpayer for local telephone service or toll telephone service, the amount  
16       on which the tax with respect to such services shall be based shall be the sum of all charges for  
17       such services included in the bill; except that if a person who renders the bill groups individual  
18       items for purposes of rendering the bill and computing the tax, then the amount on which the tax  
19       for each such group shall be based shall be the sum of all items within that group, and the tax on  
20       the remaining items not included in any such group shall be based on the charge for each item  
21       separately. If the tax imposed by this section with respect to toll telephone service is paid by  
22       inserting coins in coin operated telephones, the tax shall be computed to the nearest multiple of  
23       five cents, except that, where the tax is midway between multiples of five cents, the next higher  
24       multiple shall apply. The tax so paid shall be remitted at the same time as the sales tax imposed  
25       by this chapter.



1 Section 12. That § 10-45-8 be amended to read as follows:

2 10-45-8. There is imposed a tax of four and one-half percent upon the gross receipts from  
3 all sales of tickets or admissions to places of amusement and athletic events, except as otherwise  
4 provided in this chapter.

5 Section 13. That § 10-45-70 be amended to read as follows:

6 10-45-70. There is imposed a tax of four and one-half percent on the gross receipts from the  
7 transportation of tangible personal property. The tax imposed by this section shall apply to any  
8 transportation of tangible personal property if both the origin and destination of the tangible  
9 personal property are within this state.

10 Section 14. That § 10-45-71 be amended to read as follows:

11 10-45-71. There is imposed a tax of four and one-half percent on the gross receipts from the  
12 transportation of passengers. The tax imposed by this section shall apply to any transportation  
13 of passengers if the passenger boards and exits the mode of transportation within this state.

14 Section 15. That § 10-46-2.1 be amended to read as follows:

15 10-46-2.1. For the privilege of using services in South Dakota, except those types of services  
16 exempted by § 10-46-17.3, there is imposed on the person using the service an excise tax equal  
17 to four and one-half percent of the value of the services at the time they are rendered. However,  
18 this tax may not be imposed on any service rendered by a related corporation as defined in  
19 subdivision 10-43-1(11) for use by a financial institution as defined in subdivision 10-43-1(4) or  
20 on any service rendered by a financial institution as defined in subdivision 10-43-1(4) for use by  
21 a related corporation as defined in subdivision 10-43-1(11). For the purposes of this section, the  
22 term, related corporation, includes a corporation which together with the financial institution is  
23 part of a controlled group of corporations as defined in 26 U.S.C. § 1563 as in effect on  
24 January 1, 1989, except that the eighty percent ownership requirements set forth in 26 U.S.C.  
25 § 1563(a)(2)(A) for a brother-sister controlled group are reduced to fifty-one percent. For the

1 purpose of this chapter, services rendered by an employee for the use of his employer are not  
2 taxable.

3 Section 16. That § 10-46-2.2 be amended to read as follows:

4 10-46-2.2. An excise tax is imposed upon the privilege of the use of rented tangible personal  
5 property in this state at the rate of four and one-half percent of the rental payments upon the  
6 property.

7 Section 17. That § 10-46-57 be amended to read as follows:

8 10-46-57. There is imposed a tax of four and one-half percent on the privilege of the use of  
9 any transportation of tangible personal property. The tax imposed by this section shall apply to  
10 any transportation of tangible personal property if both the origin and destination of the tangible  
11 personal property are within this state.

12 Section 18. That § 10-46-58 be amended to read as follows:

13 10-46-58. There is imposed a tax of four and one-half percent on the privilege of the use of  
14 any transportation of passengers. The tax imposed by this section shall apply to any  
15 transportation of passengers if the passenger boards and exits the mode of transportation within  
16 this state.

17 Section 19. The effective date of this Act is July 1, 2001.

1    **BILL HISTORY**

2    1/22/99 First read in House and referred to State Affairs. H.J. 126

3    2/8/99 Scheduled for Committee hearing on this date.

4    2/10/99 State Affairs Do Pass Amended, Passed, AYES 7, NAYS 5. H.J. 458

# State of South Dakota

SEVENTY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 1999

363C0038

## HOUSE COMMERCE COMMITTEE ENGROSSED NO. **HB1121** - 2/12/99

Introduced by: Representatives Brooks, Crisp, Davis, Fischer-Clemens, Fitzgerald, Hagen, Haley, Hanson, Hunt, Koehn, Kooistra, Lockner, Lucas, McCoy, Michels, Monroe, Patterson, Peterson, Roe, Sutton (Daniel), Sutton (Duane), Waltman, and Wilson and Senators Brown (Arnold), Dunn (Rebecca), Everist, Kloucek, Lawler, Madden, Moore, Munson (David), Olson, Shoener, Valandra, and Vitter

1 FOR AN ACT ENTITLED, An Act to provide health insurance coverage for diabetes supplies,  
2 equipment, and self-management training and education.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 58-17 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 Every policy of health insurance delivered, issued for delivery, or renewed in this state,  
7 except for policies that provide coverage for specified disease or other limited benefit coverage,  
8 shall provide, in writing, coverage for equipment, supplies, and self-management training and  
9 education, including medical nutrition therapy, for treatment of persons diagnosed with diabetes  
10 if prescribed by a physician or other licensed health care provider legally authorized to prescribe  
11 such treatment.

12 Coverage for equipment and supplies shall include blood glucose monitors, blood glucose  
13 monitors for the legally blind, test strips for glucose monitors, urine testing strips, insulin,  
14 injection aids, lancets, lancet devices, syringes, insulin pumps and all supplies for the pump,

1 insulin infusion devices, prescribed oral agents for controlling blood sugars, glucose agents,  
2 glucagon kits, insulin measurement and administration aids for the visually impaired, and other  
3 medical devices medically necessary for treatment of diabetes.

4 Diabetes self-management training and education shall be covered if: (a) the service is  
5 provided by a physician, nurse, dietitian, pharmacist, or other licensed health care provider who  
6 satisfies the current academic eligibility requirements of the National Certification Board for  
7 Diabetic Educators and has completed a course in diabetes education and training or has been  
8 certified as a diabetes educator; and (b) the training and education is based upon a diabetes  
9 program recognized by the American Diabetes Association or a diabetes program with a  
10 curriculum approved by the American Diabetes Association or the South Dakota Department  
11 of Health.

12 Coverage of diabetes self-management training is limited to (a) persons who are newly  
13 diagnosed with diabetes or have received no prior diabetes education; (b) persons who require  
14 a change in current therapy; (c) persons who have a co-morbid condition such as heart disease  
15 or renal failure; or (d) persons whose diabetes condition is unstable. No less than two  
16 comprehensive education programs per lifetime and up to eight follow-up visits per year may be  
17 covered. Coverage is limited to the closest available qualified education program that provides  
18 the necessary management training to accomplish the prescribed treatment.

19 The benefits provided in this section are subject to the same dollar limits, deductibles,  
20 coinsurance, and other restrictions established for all other benefits covered in the policy.

21 Section 2. That § 58-17-99 be amended to read as follows:

22 58-17-99. The provisions of § 58-17-98 and section 1 of this Act do not apply to any plan,  
23 policy, or contract that provides coverage only for:

- 24 (1) Specified disease;  
25 (2) Hospital indemnity;

- 1 (3) Fixed indemnity;
- 2 (4) Accident-only;
- 3 (5) Credit;
- 4 (6) Dental;
- 5 (7) Vision;
- 6 (8) Prescription drug;
- 7 (9) Medicare supplement;
- 8 (10) Long-term care;
- 9 (11) Disability income insurance;
- 10 (12) Coverage issued as a supplement to liability insurance;
- 11 (13) Workers' compensation or similar insurance;
- 12 (14) Automobile medical payment insurance; or
- 13 (15) Individual health benefit plans of six-months duration or less that are not renewable.

14 Section 3. That chapter 58-18 be amended by adding thereto a NEW SECTION to read as  
15 follows:

16 Every group health insurance policy delivered, issued for delivery or renewed in this state,  
17 except for policies that provide coverage for special disease or other limited benefit coverage,  
18 shall provide, in writing, coverage for equipment, supplies, and self-management training and  
19 education, including medical nutrition therapy, for treatment of persons diagnosed with diabetes  
20 if prescribed by a physician or other licensed health care provider legally authorized to prescribe  
21 such treatment.

22 Coverage for equipment and supplies shall include blood glucose monitors, blood glucose  
23 monitors for the legally blind, test strips for glucose monitors, urine testing strips, insulin,  
24 injection aids, lancets, lancet devices, syringes, insulin pumps and all supplies for the pump,  
25 insulin infusion devices, prescribed oral agents for controlling blood sugars, glucose agents,

1 glucagon kits, insulin measurement and administration aids for the visually impaired, and other  
2 medical devices medically necessary for treatment of diabetes.

3 Diabetes self-management training and education shall be covered if: (a) the service is  
4 provided by a physician, nurse, dietitian, pharmacist, or other licensed health care provider who  
5 satisfies the current academic eligibility requirements of the National Certification Board for  
6 Diabetic Educators and has completed a course in diabetes education and training or has been  
7 certified as a diabetes educator; and (b) the training and education is based upon a diabetes  
8 program recognized by the American Diabetes Association or a diabetes program with a  
9 curriculum approved by the American Diabetes Association or the South Dakota Department  
10 of Health.

11 Coverage of diabetes self-management training is limited to (a) persons who are newly  
12 diagnosed with diabetes or have received no prior diabetes education; (b) persons who require  
13 a change in current therapy; (c) persons who have a co-morbid condition such as heart disease  
14 or renal failure; or (d) persons whose diabetes condition is unstable. No less than two  
15 comprehensive education programs per lifetime and up to eight follow-up visits per year may be  
16 covered. Coverage is limited to the closest available qualified education program that provides  
17 the necessary management training to accomplish the prescribed treatment.

18 The benefits provided in this section are subject to the same dollar limits, deductibles,  
19 coinsurance, and other restrictions established for all other benefits covered in the policy.

20 Section 4. That § 58-18-81 be amended to read as follows:

21 58-18-81. The provisions of § 58-18-80 and section 3 of this Act do not apply to any plan,  
22 policy, or contract that provides coverage only for:

- 23 (1) Specified disease;
- 24 (2) Hospital indemnity;
- 25 (3) Fixed indemnity;

- 1 (4) Accident-only;
- 2 (5) Credit;
- 3 (6) Dental;
- 4 (7) Vision;
- 5 (8) Prescription drug;
- 6 (9) Medicare supplement;
- 7 (10) Long-term care;
- 8 (11) Disability income insurance;
- 9 (12) Coverage issued as a supplement to liability insurance;
- 10 (13) Workers' compensation or similar insurance;
- 11 (14) Automobile medical payment insurance; or
- 12 (15) Individual health benefit plans of six-months duration or less that are not renewable.

13 Section 5. That chapter 58-18B be amended by adding thereto a NEW SECTION to read  
14 as follows:

15 Every small employer health benefit plan delivered, issued for delivery, or renewed in this  
16 state, except for policies that provide coverage for specified disease or other limited benefit  
17 coverage, shall provide, in writing, coverage for equipment, supplies, and self-management  
18 training and education, including medical nutrition therapy, for treatment of persons diagnosed  
19 with diabetes if prescribed by a physician or other licensed health care provider legally authorized  
20 to prescribe such treatment.

21 Coverage for equipment and supplies shall include blood glucose monitors, blood glucose  
22 monitors for the legally blind, test strips for glucose monitors, urine testing strips, insulin,  
23 injection aids, lancets, lancet devices, syringes, insulin pumps and all supplies for the pump,  
24 insulin infusion devices, prescribed oral agents for controlling blood sugars, glucose agents,  
25 glucagon kits, insulin measurement and administration aids for the visually impaired, and other



1 medical devices medically necessary for treatment of diabetes.

2 Diabetes self-management training and education shall be covered if: (a) the service is  
3 provided by a physician, nurse, dietitian, pharmacist, or other licensed health care provider who  
4 satisfies the current academic eligibility requirements of the National Certification Board for  
5 Diabetic Educators and has completed a course in diabetes education and training or has been  
6 certified as a diabetes educator; and (b) the training and education is based upon a diabetes  
7 program recognized by the American Diabetes Association or a diabetes program with a  
8 curriculum approved by the American Diabetes Association or the South Dakota Department  
9 of Health.

10 Coverage of diabetes self-management training is limited to (a) persons who are newly  
11 diagnosed with diabetes or have received no prior diabetes education; (b) persons who require  
12 a change in current therapy; (c) persons who have a co-morbid condition such as heart disease  
13 or renal failure; or (d) persons whose diabetes condition is unstable. No less than two  
14 comprehensive education programs per lifetime and up to eight follow-up visits per year may be  
15 covered. Coverage is limited to the closest available qualified education program that provides  
16 the necessary management training to accomplish the prescribed treatment.

17 The benefits provided in this section are subject to the same dollar limits, deductibles,  
18 coinsurance, and other restrictions established for all other benefits covered in the plan.

19 Section 6. That § 58-18B-54 be amended to read as follows:

20 58-18B-54. The provisions of § 58-18B-53 and section 5 of this Act do not apply to any  
21 plan, policy, or contract that provides coverage only for:

- 22 (1) Specified disease;
- 23 (2) Hospital indemnity;
- 24 (3) Fixed indemnity;
- 25 (4) Accident-only;

- 1 (5) Credit;
- 2 (6) Dental;
- 3 (7) Vision;
- 4 (8) Prescription drug;
- 5 (9) Medicare supplement;
- 6 (10) Long-term care;
- 7 (11) Disability income insurance;
- 8 (12) Coverage issued as a supplement to liability insurance;
- 9 (13) Workers' compensation or similar insurance;
- 10 (14) Automobile medical payment insurance; or
- 11 (15) Individual health benefit plans of six-months duration or less that are not renewable.

12 Section 7. That chapter 58-38 be amended by adding thereto a NEW SECTION to read as  
13 follows:

14 Every service or indemnity-type contract issued by a nonprofit medical and surgical service  
15 plan corporation delivered, issued for delivery, or renewed in this state, except for policies that  
16 provide coverage for specified disease or other limited benefit coverage, shall provide, in writing,  
17 coverage for equipment, supplies, and self-management training and education, including medical  
18 nutrition therapy, for treatment of persons diagnosed with diabetes if prescribed by a physician  
19 or other licensed health care provider legally authorized to prescribe such treatment.

20 Coverage for equipment and supplies shall include blood glucose monitors, blood glucose  
21 monitors for the legally blind, test strips for glucose monitors, urine testing strips, insulin,  
22 injection aids, lancets, lancet devices, syringes, insulin pumps and all supplies for the pump,  
23 insulin infusion devices, prescribed oral agents for controlling blood sugars, glucose agents,  
24 glucagon kits, insulin measurement and administration aids for the visually impaired, and other  
25 medical devices medically necessary for treatment of diabetes.

Diabetes self-management training and education shall be covered if: (a) the service is provided by a physician, nurse, dietitian, pharmacist, or other licensed health care provider who satisfies the current academic eligibility requirements of the National Certification Board for Diabetic Educators and has completed a course in diabetes education and training or has been certified as a diabetes educator; and (b) the training and education is based upon a diabetes program recognized by the American Diabetes Association or a diabetes program with a curriculum approved by the American Diabetes Association or the South Dakota Department of Health.

Coverage of diabetes self-management training is limited to (a) persons who are newly diagnosed with diabetes or have received no prior diabetes education; (b) persons who require a change in current therapy; (c) persons who have a co-morbid condition such as heart disease or renal failure; or (d) persons whose diabetes condition is unstable. No less than two comprehensive education programs per lifetime and up to eight follow-up visits per year may be covered. Coverage is limited to the closest available qualified education program that provides the necessary management training to accomplish the prescribed treatment.

The benefits provided in this section are subject to the same dollar limits, deductibles, coinsurance, and other restrictions established for all other benefits covered in the contract.

Section 8. That § 58-38-41 be amended to read as follows:

58-38-41. The provisions of § 58-38-40 and section 7 of this Act do not apply to any plan, policy, or contract that provides coverage only for:

- (1) Specified disease;
- (2) Hospital indemnity;
- (3) Fixed indemnity;
- (4) Accident-only;
- (5) Credit;

- 1 (6) Dental;
- 2 (7) Vision;
- 3 (8) Prescription drug;
- 4 (9) Medicare supplement;
- 5 (10) Long-term care;
- 6 (11) Disability income insurance;
- 7 (12) Coverage issued as a supplement to liability insurance;
- 8 (13) Workers' compensation or similar insurance;
- 9 (14) Automobile medical payment insurance; or
- 10 (15) Individual health benefit plans of six-months duration or less that are not renewable.

11 Section 9. That chapter 58-40 be amended by adding thereto a NEW SECTION to read as  
12 follows:

13 Every service or indemnity-type contract issued by a nonprofit hospital service plan  
14 corporation delivered, issued for delivery, or renewed in this state, except for policies that  
15 provide coverage for specified disease or other limited benefit coverage, shall provide, in writing,  
16 coverage for equipment, supplies, and self-management training and education, including medical  
17 nutrition therapy, for treatment of persons diagnosed with diabetes if prescribed by a physician  
18 or other licensed health care provider legally authorized to prescribe such treatment.

19 Coverage for equipment and supplies shall include blood glucose monitors, blood glucose  
20 monitors for the legally blind, test strips for glucose monitors, urine testing strips, insulin,  
21 injection aids, lancets, lancet devices, syringes, insulin pumps and all supplies for the pump,  
22 insulin infusion devices, prescribed oral agents for controlling blood sugars, glucose agents,  
23 glucagon kits, insulin measurement and administration aids for the visually impaired, and other  
24 medical devices medically necessary for treatment of diabetes.

25 Diabetes self-management training and education shall be covered if: (a) the service is

1 provided by a physician, nurse, dietitian, pharmacist, or other licensed health care provider who  
2 satisfies the current academic eligibility requirements of the National Certification Board for  
3 Diabetic Educators and has completed a course in diabetes education and training or has been  
4 certified as a diabetes educator; and (b) the training and education is based upon a diabetes  
5 program recognized by the American Diabetes Association or a diabetes program with a  
6 curriculum approved by the American Diabetes Association or the South Dakota Department  
7 of Health.

8 Coverage of diabetes self-management training is limited to (a) persons who are newly  
9 diagnosed with diabetes or have received no prior diabetes education; (b) persons who require  
10 a change in current therapy; (c) persons who have a co-morbid condition such as heart disease  
11 or renal failure; or (d) persons whose diabetes condition is unstable. No less than two  
12 comprehensive education programs per lifetime and up to eight follow-up visits per year may be  
13 covered. Coverage is limited to the closest available qualified education program that provides  
14 the necessary management training to accomplish the prescribed treatment.

15 The benefits provided in this section are subject to the same dollar limits, deductibles,  
16 coinsurance, and other restrictions established for all other benefits covered in the contract.

17 Section 10. That § 58-40-38 be amended to read as follows:

18 58-40-38. The provisions of § 58-40-37 and section 9 of this Act do not apply to any plan,  
19 policy, or contract that provides coverage only for:

- 20 (1) Specified disease;
- 21 (2) Hospital indemnity;
- 22 (3) Fixed indemnity;
- 23 (4) Accident-only;
- 24 (5) Credit;
- 25 (6) Dental;

- 1 (7) Vision;
- 2 (8) Prescription drug;
- 3 (9) Medicare supplement;
- 4 (10) Long-term care;
- 5 (11) Disability income insurance;
- 6 (12) Coverage issued as a supplement to liability insurance;
- 7 (13) Workers' compensation or similar insurance;
- 8 (14) Automobile medical payment insurance; or
- 9 (15) Individual health benefit plans of six-months duration or less that are not renewable.

10 Section 11. That chapter 58-41 be amended by adding thereto a NEW SECTION to read as  
11 follows:

12 Every health maintenance contract delivered, issued for delivery, or renewed in this state,  
13 except for policies that provide coverage for specified disease or other limited benefit coverage,  
14 shall provide, in writing, coverage for equipment, supplies, and self-management training and  
15 education, including medical nutrition therapy, for treatment of persons diagnosed with diabetes  
16 if prescribed by a physician or other licensed health care provider legally authorized to prescribe  
17 such treatment.

18 Coverage for equipment and supplies shall include blood glucose monitors, blood glucose  
19 monitors for the legally blind, test strips for glucose monitors, urine testing strips, insulin,  
20 injection aids, lancets, lancet devices, syringes, insulin pumps and all supplies for the pump,  
21 insulin infusion devices, prescribed oral agents for controlling blood sugars, glucose agents,  
22 glucagon kits, insulin measurement and administration aids for the visually impaired, and other  
23 medical devices medically necessary for treatment of diabetes.

24 Diabetes self-management training and education shall be covered if: (a) the service is  
25 provided by a physician, nurse, dietitian, pharmacist, or other licensed health care provider who

1 satisfies the current academic eligibility requirements of the National Certification Board for  
2 Diabetic Educators and has completed a course in diabetes education and training or has been  
3 certified as a diabetes educator; and (b) the training and education is based upon a diabetes  
4 program recognized by the American Diabetes Association or a diabetes program with a  
5 curriculum approved by the American Diabetes Association or the South Dakota Department  
6 of Health.

7 Coverage of diabetes self-management training is limited to (a) persons who are newly  
8 diagnosed with diabetes or have received no prior diabetes education; (b) persons who require  
9 a change in current therapy; (c) persons who have a co-morbid condition such as heart disease  
10 or renal failure; or (d) persons whose diabetes condition is unstable. No less than two  
11 comprehensive education programs per lifetime and up to eight follow-up visits per year may be  
12 covered. Coverage is limited to the closest available qualified education program that provides  
13 the necessary management training to accomplish the prescribed treatment.

14 The benefits provided in this section are subject to the same dollar limits, deductibles,  
15 coinsurance, and other restrictions established for all other benefits covered in the contract.

16 Section 12. That § 58-41-116 be amended to read as follows:

17 58-41-116. The provisions of § 58-41-115 and section 11 of this Act do not apply to any  
18 plan, policy, or contract that provides coverage only for:

- 19 (1) Specified disease;
- 20 (2) Hospital indemnity;
- 21 (3) Fixed indemnity;
- 22 (4) Accident-only;
- 23 (5) Credit;
- 24 (6) Dental;
- 25 (7) Vision;

- 1       (8)    Prescription drug;
- 2       (9)    Medicare supplement;
- 3       (10)   Long-term care;
- 4       (11)   Disability income insurance;
- 5       (12)   Coverage issued as a supplement to liability insurance;
- 6       (13)   Workers' compensation or similar insurance;
- 7       (14)   Automobile medical payment insurance; or
- 8       (15)   Individual health benefit plans of six-months duration or less that are not renewable.



1    **BILL HISTORY**

2    1/22/99 First read in House and referred to Commerce. H.J. 128

3    2/11/99 Scheduled for Committee hearing on this date.

4    2/11/99 Commerce Do Pass Amended, Passed, AYES 10, NAYS 3. H.J. 482

# State of South Dakota

SEVENTY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 1999

447C0644

## SENATE ENGROSSED NO. **HB1158** - 2/11/99

Introduced by: Representatives Waltman, Broderick, Brown (Richard), Burg, Chicoine, Crisp, Davis, Diedtrich (Elmer), Duenwald, Fischer-Clemens, Fryslic, Hagen, Haley, Hanson, Hennies, Kazmerzak, Koetzle, Kooistra, Lockner, Lucas, McIntyre, Patterson, Roe, Sutton (Daniel), Sutton (Duane), Volesky, Weber, Wilson, and Wudel and Senators Dennert and Kloucek

1 FOR AN ACT ENTITLED, An Act to allow counties to participate in a simulated election.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That § 12-18-3.1 be amended to read as follows:

4 12-18-3.1. Minors voting in a simulated election and persons supervising or working in a  
5 simulated election in which minors vote shall be allowed in a polling place. All activities  
6 associated with a simulated election are subject to the provisions of § 12-18-3, and all such  
7 activities shall be conducted in an objective, impartial, and nonpartisan manner that does not  
8 promote one candidate, party, or position over another. Any such activity shall afford any legally  
9 qualified candidate for any public office the opportunity to participate in the activity equal to the  
10 opportunity afforded to any other candidate for that office. A ballot used in a simulated election  
11 held pursuant to this section shall be labeled in such a manner as to easily distinguish such ballot.  
12 No results from a simulated election for minors may be released prior to the close of the polls.  
13 The superintendent of the election board shall exercise authority over all election and simulated  
14 election related activities at the polling place. Anyone conducting a simulated election for minors

1 at a polling place shall notify the county auditor in that county at least thirty days prior to the  
2 election. ~~The cost of conducting~~ If approved by the county commissioners, a county may  
3 participate in a simulated election pursuant to this section ~~may not be borne by the county.~~

1    **BILL HISTORY**

2    1/25/99 First read in House and referred to Local Government. H.J. 176

3    2/2/99 Scheduled for Committee hearing on this date.

4    2/2/99 Local Government Do Pass, Passed, AYES 10, NAYS 3. H.J. 314

5    2/3/99 House of Representatives Do Pass, Passed, AYES 48, NAYS 20. H.J. 355

6    2/4/99 First read in Senate and referred to Local Government. S.J. 342

7    2/10/99 Scheduled for Committee hearing on this date.

8    2/10/99 Local Government Do Pass, Passed, AYES 6, NAYS 1. S.J. 416

# State of South Dakota

SEVENTY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 1999

336C0789

## HOUSE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **HB1254** - 2/12/99

Introduced by: Representatives Clark, Brown (Richard), Cutler, Diedtrich (Elmer), Engbrecht, Hennies, Klaudt, McCoy, Roe, Slaughter, Smidt, Sutton (Duane), and Young and Senators Vitter, Benson, Drake, Kleven, and Madden

1 FOR AN ACT ENTITLED, An Act to revise certain provisions related to local government  
2 officer conflicts of interest.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 6-1-1 be amended to read as follows:

5 6-1-1. ~~It shall be unlawful for any~~ No officer of a county, municipality, township, or school  
6 district, who has been elected or appointed, ~~to be interested~~ may have a direct financial interest,  
7 ~~either by himself or as an individual or through an~~ agent, in any contract entered into by ~~said~~ the  
8 county, municipality, township, or school district, either for labor or services to be rendered, or  
9 for the purchase of commodities, materials, supplies, or equipment of any kind, the expense,  
10 price or consideration of which is paid from public funds or from any assessment levied by ~~said~~  
11 the county, municipality, township, or school district, or in the purchase of any real or personal  
12 property belonging to the county, municipality, township, or school district or which ~~shall be~~ is  
13 sold for taxes or assessments or by virtue of legal process at the suit of ~~such~~ the county,  
14 municipality, township, or school district. ~~Such~~ Any such contract ~~shall be~~ is null and void from  
15 the beginning. For purposes of this section, the term, direct financial interest, means that the

- 1 officer has the authority or ability to control, direct, or manage the contract-related activities of
- 2 the entity that has contracted with the county, municipality, township, or school district and will
- 3 gain direct financial benefit as a result of the contract.

1    **BILL HISTORY**

2    1/29/99 First read in House and referred to Local Government. H.J. 267

3    2/9/99 Scheduled for Committee hearing on this date.

4    2/11/99 Scheduled for Committee hearing on this date.

5    2/11/99 Local Government Do Pass Amended, Passed, AYES 11, NAYS 1. H.J. 485

# State of South Dakota

SEVENTY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 1999

672C0677

HOUSE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **HB1257** - 2/10/99

Introduced by: Representatives Peterson and Richter and Senators Everist and Madden

1 FOR AN ACT ENTITLED, An Act to revise how certain alcoholic beverage licenses are issued  
2 to certain nonprofit organizations by a municipality or county.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 35-4-104 be amended to read as follows:

5 35-4-104. Any municipality or county may issue ~~a special~~ an on-sale malt beverage retailers'  
6 license and a ~~special~~ retail on-sale wine dealers' license or an on-sale license pursuant to  
7 subdivision 35-4-2(4) to a community playhouse operating as a nonprofit organization for use  
8 in conjunction with a theatrical production. recognized as an exempt organization under section  
9 501(c)(3) of the Internal Revenue Code, as amended, and in effect on January 1, 1999, for the  
10 sale of alcoholic beverages at a community playhouse or a museum of arts and science. The sale  
11 of alcoholic beverages may only occur in connection with a theatrical or musical production,  
12 exhibition, or other special event conducted by the nonprofit organization. Any license issued  
13 pursuant to this section may be issued for a period of time established by the municipal governing  
14 board or board of county commissioners up to a period of one year. ~~However, such use may not~~  
15 ~~exceed sixty days per year. The selling, serving or dispensing of malt beverages and wine may~~  
16 ~~not occur more than one hour before the commencement of a performance or at any time after~~



1 ~~the performance is concluded.~~

2 Section 2. That § 35-4-105 be amended to read as follows:

3 35-4-105. A license issued pursuant to § 35-4-104 shall be issued to the organization and  
4 location specified on the application, and in the case of an on-sale license under subdivision 35-4-  
5 2(4), shall be exempt from the quotas established in § 35-4-11. Notwithstanding subdivisions  
6 35-4-2(4), (12), and (16), the fee for each license is one hundred dollars. Each application shall  
7 be accompanied by the fee prior to consideration by the governing body or board of county  
8 commissioners. Notwithstanding § 35-5-21.1, the fee provided for in this section shall be  
9 retained by the governing body or board of county commissioners issuing such license.

1    **BILL HISTORY**

2    1/29/99 First read in House and referred to Local Government. H.J. 268

3    2/9/99 Scheduled for Committee hearing on this date.

4    2/9/99 Local Government Do Pass Amended, Passed, AYES 7, NAYS 6. H.J. 430

# State of South Dakota

SEVENTY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 1999

660C0775

## HOUSE AGRICULTURE AND NATURAL RESOURCES COMMITTEE ENGROSSED NO. **HB1263** - 2/12/99

Introduced by: Representatives Jaspers and Diedrich (Larry) and Senators Drake and Hainje

1 FOR AN ACT ENTITLED, An Act to establish the agricultural chemical response and  
2 remediation account.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. Terms used in this Act mean:

5 (1) "Agricultural chemical," pesticide, commercial fertilizer, plant amendments, or soil  
6 amendments, but does not include nitrate and related nitrogen or phosphate from a  
7 natural source or wood preservative treatments;

8 (2) "Board," the agricultural chemical remediation account board;

9 (3) "Eligible person," a person who meets the eligibility established in section 2 of this  
10 Act;

11 (4) "Fund," the agricultural chemical remediation account fund;

12 (5) "Responsible party," a person who at the time of an agricultural chemical incident or  
13 accident has care, custody, or control of, or responsibility for an agricultural chemical,  
14 its container, or residues from such chemicals or containers;

15 (6) "Secretary," the South Dakota secretary of agriculture;

16 (7) "Single site," all land and water areas, including air space, and all plants, animals,

1 structures, buildings, contrivances, and machinery whether fixed or mobile, including  
2 anything used for transportation within a one-half mile radius of a discovered or  
3 reported incident where agricultural chemical handling, storage, disposal, and  
4 distribution activities have occurred or are now occurring;

5 (8) "Site assessment," the evaluation of the environmental characteristics of a particular  
6 facility or location where an incident or accident involving agricultural chemicals has  
7 occurred, including hydro geology, soil characteristics, topographical features,  
8 nearness to sources of drinking water, environmental indicators and safeguards,  
9 proximity to sensitive human populations, and available, scientifically valid soil or  
10 water monitoring results. Site assessment may also include the use of predictive  
11 procedures for determining the need for and extent of corrective action;

12 (9) "Source drinking water," a current or potential source of water either from the ground  
13 or surface for human consumption;

14 (10) "Unreasonable adverse effects on humans and the environment," any unreasonable  
15 risk to humans or the environment, taking into account the economic, social, and  
16 environmental costs and benefits to the use of an agricultural chemical; and

17 (11) "Water quality standard," the numerical value expressing the concentration of an  
18 agricultural chemical in sources of drinking water established by the State of South  
19 Dakota, and may include the maximum contaminate level as established under the  
20 Safe Drinking Water Act, as amended to January 1, 1999.

21 Section 2. For the purposes of this Act, an eligible person includes:

22 (1) A responsible party or an owner of real property or a conservation district, but not the  
23 state, a state agency, a political subdivision of the state, the federal government, or  
24 an agency of the federal government;

25 (2) A person involved in a transaction relating to real property who is not a responsible

1 party or owner of the real property, and who voluntarily takes corrective action on  
2 the property in response to a request or order for corrective action from the  
3 Department of Environmental and Natural Resources; and

4 (3) A farmer who voluntarily complies with §§ 38-21-15.1 and 38-19-36.2.

5 Section 3. There is hereby established in the state treasury the agricultural chemical  
6 remediation account fund for the purpose of reimbursing the costs to eligible persons for  
7 voluntary response to, and voluntary remediation of, agricultural chemical incidents, accidents,  
8 or historical contamination. Expenditures of this fund shall be made in accordance with the  
9 provisions of chapter 4-7.

10 Section 4. Notwithstanding the fees imposed by § 38-21-17, the secretary shall impose a  
11 surcharge of twenty dollars per year for a commercial applicator's license. The proceeds from  
12 the surcharge shall be deposited into the fund.

13 Section 5. Notwithstanding the fees imposed by § 38-21-33.5, the secretary shall impose a  
14 surcharge of seventy-five dollars per year for a pesticide dealer license. The proceeds from the  
15 surcharge shall be deposited into the fund.

16 Section 6. Notwithstanding the fees imposed by § 38-19-2.1, the secretary shall impose a  
17 surcharge of seventy-five dollars per year for a commercial fertilizer distribution license. The  
18 proceeds from the surcharge shall be deposited into the fund.

19 Section 7. Notwithstanding the fees imposed by § 38-19-10, the secretary shall impose a  
20 surcharge of no more than twenty-eight cents per ton of fertilizer for the inspection fee. The  
21 proceeds from the surcharge shall be deposited into the fund.

22 Section 8. Notwithstanding the fees imposed by § 38-20A-59, the secretary shall impose a  
23 surcharge on the registration application fee for agricultural pesticides that is no more than two-  
24 tenths of one percent of annual sales on the pesticide in the state, except the surcharge may not  
25 be imposed on nonagricultural pesticides. The proceeds from the surcharge shall be deposited

1 into the fund.

2 Section 9. Money in the agricultural chemical remediation account fund may be only used:

3 (1) By the board to reimburse the secretary for staff and the administrator for  
4 administrative costs up to seventy-five thousand dollars per year; and

5 (2) To reimburse and pay corrective action costs under section 10 of this Act.

6 Section 10. The board shall notify the secretary to collect the fees authorized by sections 4  
7 to 8, inclusive, of this Act. The secretary shall collect the fee beginning July 1, 1999, until the  
8 fund reaches five million dollars or more, at which time the fees shall be reduced. The board shall  
9 notify the secretary if the asset value of the fund falls below five hundred thousand dollars, and  
10 the secretary shall reimpose the fees established in sections 7 and 8 of this Act. Reasonable  
11 forecasts of future expenses and income may be used in reducing or increasing the fees.

12 Section 11. The fund is attached to the Department of Agriculture for budgeting. All  
13 necessary costs of the Department of Agriculture for these services, not to exceed actual costs,  
14 shall be reimbursed from the revenue of this Act.

15 Section 12. The board shall promulgate rules, pursuant to chapter 1-26, to specify the form  
16 and procedure for applications for compensation from the fund, procedures and criteria for  
17 determining the amount and type of costs that are eligible for reimbursement from the fund,  
18 procedures for acceptable methods of payment from the fund, procedures for persons to perform  
19 services for the fund, the method and forms necessary for the collection of the fees, and other  
20 rules and procedures necessary for carrying out the provisions of this Act. In addition, the board  
21 may promulgate rules to:

22 (1) Contract and cooperate with any person or with any governmental department or  
23 agency;

24 (2) Expend the funds pursuant to sections 14 to 17, inclusive, of this Act appropriate for  
25 its administration;

1       (3)    Appoint, discharge, fix compensation for, and prescribe the duties of the personnel  
2            as necessary; and

3       (4)    Accept donations of fund property, service, or other assistance from public or private  
4            service sources for the purpose of furthering the objective of the board.

5       Section 13. Revenue from the following sources shall be deposited in the state treasury and  
6       credited to the agricultural response and remediation account fund:

7       (1)    Any fees imposed by this Act;

8       (2)    Any interest attributable to investment of money in the fund;

9       (3)    Any money received by the secretary of agriculture in the form of gifts, grants, or  
10            appropriations from any source intended to be used for the purposes of the fund.

11       Section 14. The board shall reimburse an eligible person for the agricultural chemical  
12       response and reimbursement fund for the reasonable and necessary costs incurred by the eligible  
13       person in taking voluntary action as provided in this Act if the board determines:

14       (1)    The eligible person takes all reasonable action necessary to minimize and abate an  
15            incident, and the action is subsequently approved by the Department of Environment  
16            and Natural Resources;

17       (2)    The eligible person complies with any reasonable request for corrective action issued  
18            to the eligible person by the Department of Environment and Natural Resources; and

19       (3)    The incident is reported as required pursuant to titles 34, 34A, and 38.

20       Section 15. On request by an eligible person, the board may pay the eligible person for the  
21       reasonable and necessary cash disbursements for corrective action costs incurred by the eligible  
22       person as provided in this Act if the board determines:

23       (1)    The eligible person pays the first one thousand dollars of the corrective action costs;

24       (2)    The eligible person provides the board with a sworn affidavit and other convincing  
25            evidence that the eligible person is unable to pay additional corrective action costs;

1           and

2           (3)   The eligible person continues to assume responsibility for carrying out the  
3           requirements of a corrective action.

4           Section 16. No eligible person may receive payment for, or reimbursement from the fund,  
5   and the person shall refund amounts paid or reimbursed by the board, if false statements or  
6   misrepresentations are made in the affidavit or other evidence submitted to the secretary upon  
7   showing an inability to pay corrective action costs.

8           Section 17. The board may pay an eligible person monies from the agricultural chemical  
9   remediation account fund for:

10          (1)   Ninety percent of the total reasonable and necessary corrective action costs greater  
11               than one thousand dollars and less than or equal to one hundred thousand dollars;

12          (2)   Eighty percent of the total reasonable and necessary corrective action costs greater  
13               than one hundred thousand dollars and less than or equal to two hundred thousand  
14               dollars.

15          Section 18. The agricultural chemical remediation account board is created and shall consist  
16   of the secretary of agriculture, the secretary of the Department of Environment and Natural  
17   Resources, one representative of agricultural chemical manufacturers and wholesalers, one  
18   representative of farmers, and one representative of dealers of retail agricultural chemicals.  
19   Private industry representatives shall be appointed by the secretary who shall consider  
20   recommendations for such appointments by the Ag Unity Group.

21          Section 19. The term of the members of the board is four years, except that the initial  
22   appointments are for staggered terms. Vacancies are appointed under the same conditions as the  
23   term vacated.

24          Section 20. The Board shall annually elect a chair and a vice chair. The chair and vice chair  
25   shall be members of the board and may not be the secretary of agriculture or environment and



1 natural resources. The chair shall preside at regular and special meetings, or the vice chair in the  
2 absence of the chair. A quorum consists of three board members. At least six regular meetings  
3 of the board shall be scheduled a year. A scheduled meeting may be canceled if there is  
4 insufficient business. Special meetings of the board may be called by the chair or by written  
5 request of three board members.

6 Section 21. Compensation for the board shall be paid pursuant to § 4-7-10.4 from the  
7 surcharges collected pursuant to this Act.

8 Section 22. This chapter does not abrogate or limit in any way the rights, powers, duties, and  
9 functions of the Department of Agriculture, Department of Environment and Natural Resources,  
10 or any agency of the state.

11 Section 23. The sum of fifty thousand dollars shall be deposited in the agricultural chemical  
12 response and remediation account on July 1, 1999, from the money collected from the following  
13 sources:

- 14 (1) Commercial fertilizer distributor licenses pursuant to § 38-19-2.1;
- 15 (2) Speciality fertilizer inspection fee pursuant to § 38-19-10;
- 16 (3) Soil conditioner product registration pursuant to § 38-19A-4;
- 17 (4) Pesticide applicator license pursuant to § 38-21-17;
- 18 (5) Pesticide dealer's license pursuant to § 38-21-33.5;
- 19 (6) Pesticide registration fee pursuant to § 38-20A-4.

1    **BILL HISTORY**

2    1/29/99 First read in House and referred to Agriculture and Natural Resources. H.J. 269

3    2/11/99 Scheduled for Committee hearing on this date.

4    2/11/99 Agriculture and Natural Resources Do Pass Amended, Passed, AYES 7, NAYS 4.

5    H.J. 484

# State of South Dakota

SEVENTY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 1999

754C0818

## HOUSE EDUCATION COMMITTEE ENGROSSED NO. **HB1270** - 2/12/99

Introduced by: Representatives Fitzgerald, Apa, Brooks, Clark, Davis, Earley, Fischer-Clemens, Hagen, Kooistra, Lucas, McCoy, Smidt, and Wilson and Senators Kleven, Drake, and Vitter

1 FOR AN ACT ENTITLED, An Act to permit secondary schools to offer County Extension

2 Service parenting classes for academic credit.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 13-33 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 Any public or nonpublic secondary school may offer its students, as an elective course,  
7 parenting classes conducted by the County Extension Service. The course may be for full or  
8 partial credit and shall be a component of a family and consumer sciences or other appropriate  
9 class.

1    **BILL HISTORY**

2    2/1/99 First read in House and referred to Education. H.J. 282

3    2/11/99 Scheduled for Committee hearing on this date.

4    2/11/99 Education Do Pass Amended, Passed, AYES 12, NAYS 0. H.J. 486

# State of South Dakota

SEVENTY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 1999

178C0494

## SENATE JUDICIARY COMMITTEE ENGROSSED NO. **SB79** - 1/30/99

Introduced by: Senators Albers, Ham, and Vitter and Representatives Weber and Engbrecht

1 FOR AN ACT ENTITLED, An Act to revise the liability for misdemeanor violations of certain  
2 provisions concerning the illegal sale or distribution of tobacco products.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 34-46-5 be amended to read as follows:

5 34-46-5. A violation of § 34-46-2 is a Class 2 misdemeanor. A person is not liable for more  
6 than one violation of § ~~34-46-2~~ subdivision 34-46-2(4) on a single day. Reasonable reliance upon  
7 proof of age of the purchaser or the recipient of a tobacco product is a complete defense to any  
8 action brought against a person for the sale or distribution of a tobacco product to a person  
9 under the age of eighteen.

10 Section 2. That chapter 34-46 be amended by adding thereto a NEW SECTION to read as  
11 follows:

12 No person may be charged with more than one violation in any twenty-four hour period  
13 which results from sales to persons purchasing during unannounced random inspections.

1    **BILL HISTORY**

2    1/21/99 First read in Senate and referred to Judiciary. S.J. 144

3    1/25/99 Scheduled for Committee hearing on this date.

4    1/25/99 Judiciary Do Pass Amended, Passed, AYES 5, NAYS 2. S.J. 174

5    1/27/99 Referred to Judiciary. S.J. 221

6    1/29/99 Scheduled for Committee hearing on this date.

7    1/29/99 Judiciary Do Pass Amended, Passed, AYES 7, NAYS 0. S.J. 251

# State of South Dakota

SEVENTY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 1999

925C0042

SENATE JUDICIARY COMMITTEE

ENGROSSED NO. **SB80** - 1/25/99

Introduced by: Senators Albers, Benson, Ham, Kleven, Staggers, and Vitter and  
Representatives Hennies, Engbrecht, and Weber

1 FOR AN ACT ENTITLED, An Act to clarify certain provisions relating to the disposition of  
2 certain controlled weapons or firearms.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 23A-37-9 be amended to read as follows:

5 23A-37-9. Articles of contraband or property of an illegal nature shall be destroyed, except  
6 that any articles which are capable of lawful use may in the discretion of the court be sold and  
7 the proceeds disposed of as provided in § 23A-37-10. ~~If there is no claimant or if the right to~~  
8 ~~possession or ownership of seized controlled weapon or firearm cannot be determined after a~~  
9 ~~reasonable period of time, the controlled weapon or firearm shall be delivered to the state~~  
10 ~~forensic laboratory within the office of attorney general. The state forensic laboratory may retain~~  
11 ~~the controlled weapon or firearm for scientific examination purposes or destroy the firearm or~~  
12 ~~controlled weapon. However, the provisions of § 23A-37-13 apply to any controlled weapon or~~  
13 firearm.

14 Section 2. That § 23A-37-13 be amended to read as follows:

15 23A-37-13. Any controlled weapon or firearm used in violation of chapter 22-14 shall be  
16 disposed of as follows:

- 1       (1)    If it is stolen, it shall be returned to the lawful owner upon proof of ownership; or
- 2       (2)    If it is illegal, it shall be destroyed pursuant to law; or
- 3       (3)    If it is neither stolen nor illegal, it shall be delivered to the arresting agency or, at the
- 4           direction of the attorney general, to the South Dakota Forensic Laboratory for
- 5           scientific examination purposes, for lawful use or disposal.

6       In the case of a disposition pursuant to subdivision (3), the arresting agency may use,

7       trade-in, or destroy the controlled weapon or firearm.



1    **BILL HISTORY**

2    1/21/99 First read in Senate and referred to Judiciary. S.J. 144

3    1/25/99 Scheduled for Committee hearing on this date.

4    1/25/99 Judiciary Do Pass Amended, Passed, AYES 7, NAYS 0. S.J. 174

# State of South Dakota

SEVENTY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 1999

851C0518

## SENATE JUDICIARY COMMITTEE ENGROSSED NO. **SB106** - 1/30/99

Introduced by: Senators Hainje, Albers, Ham, Kleven, and Vitter and Representatives Michels, Duniphan, Fitzgerald, Koetzle, and McNenny

1 FOR AN ACT ENTITLED, An Act to increase the penalty for failure to stop for an emergency  
2 vehicle.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 32-31-6.1 be amended to read as follows:

5 32-31-6.1. Upon approaching from any direction any stopped authorized emergency vehicle  
6 making use of visual signals meeting the requirements of this chapter, the driver of ~~every~~ any  
7 other vehicle shall come to a complete stop before ~~he~~ the driver reaches the stopped emergency  
8 vehicle ~~and~~. The driver may, unless otherwise directed, proceed with caution only after ~~he~~ the  
9 driver has ascertained that it is safe to do so. A violation of this section is a Class 2 misdemeanor.  
10 However, a violation of this section is a Class 1 misdemeanor if the emergency vehicle referred  
11 to in this section is an ambulance, fire department vehicle, or a rescue vehicle which is at the  
12 scene of an accident or a fire and the failure to stop results in an injury to an emergency worker  
13 or damage to any such authorized emergency vehicle.

1    **BILL HISTORY**

2    1/22/99 First read in Senate and referred to Judiciary. S.J. 161

3    1/27/99 Scheduled for Committee hearing on this date.

4    1/29/99 Scheduled for Committee hearing on this date.

5    1/29/99 Judiciary Do Pass Amended, Passed, AYES 7, NAYS 0. S.J. 251